

CHAPTER 16

OTHER RECOMMENDATIONS FOR CHANGES IN SOCIAL SECURITY

In the course of its work, the National Commission identified a number of minor or technical changes which could be made to improve the operation of the Old Age, Survivors, and Disability Insurance program and which would have no significant effect on the cost of the program. These changes are described below.

The Sick-Pay Exclusion

Present law treats sick-pay by employers, both in the public and private sectors, inconsistently. Section 209(b) of the Social Security Act excludes from the definition of wages any payments on account of sickness made under a plan or system established by the employer. In addition, Section 209(d) excludes sick payments not made under a plan or system, provided such payments are made more than six months after the last calendar month in which the employee worked. In order for a State or local government to exclude sick-pay from wages, the payment must be made from a "sick pay" account and not as a continuation of regular pay. In most States, the payments are made as a "continuation" of regular pay and are, therefore, not excluded from wages by Section 209(d). This results in confusion for many employers and creates administrative problems for the Social Security Administration when a determination must be made as to whether such income should be considered as wages for Social Security purposes.

The Commission recommends that the Social Security Act be amended so that all payments made directly to an employee by public and private employers on account of sickness would be considered as wages for Social Security purposes up to six months after the last calendar month in which the employee worked. The Commission emphasizes its belief that the change should be made s o that consideration of sick-pay as wages would not affect a person's entitlement to Social Security Disability Insurance benefits as provided under present law.

The "Notch Problem"

The wage-indexed benefit formula was enacted in 1977 and became effective on January 1, 1979. The provision for phasing-in the new indexed system can result in quite different benefit amounts between people who retire at the same time, but who reached age 62 just before or just after the effective date. The Commission believes that this discrepancy in benefit amounts--the "notch" problem--represents an inequity and recommends that it be corrected. ^{A/}

Transfer of Functions from Baltimore to Washington

A provision of the Supplemental Appropriations Act of 1955 (Public Law 83-663) contains a provision (the Friedel Amendment) under which funds available to the Social Security Administration may not "... be used to pay any costs, direct or indirect of moving

^{A/} See supplementary statement by Mr. Cohen and Mr. Myers on another notch problem.

any group of employees. . ." from Baltimore to Washington. The provision was adopted in 1954 at a time when there was discussion of moving a portion of the headquarters staff to Washington. Congressman Friedel, a representative from Baltimore, was concerned that such a move would reduce the number of jobs available to Baltimore residents.

As recently as 1978, the provision was invoked to prevent the transfer of several groups of employees from Baltimore to Washington. While the Commission takes no position on the merits of moving any group of employees from Baltimore to Washington, it believes that the decision on whether a function should be performed in one place or another should be left to the program managers. If, in any specific situation, Congressional intervention is needed, it should be based on the merits of the situation and not on circumstances which existed more than a quarter of a century ago.

Overpayment of Student Benefits

The Commission is concerned about the number of student beneficiaries from whom the Social Security Administration is unable to collect overpayments of benefits. Colleges vary widely in their record-keeping procedures , and some have no way of ascertaining whether an enrolled student is actually attending classes until the end of a session. Therefore, students may collect Social Security student benefits after they have stopped attending classes. This results in the overpayment of benefits. The Commission recommends that the Social Security Administration should be required to diary the overpayment of any student benefits for 10 years, and should make strong efforts to collect the overpayment during that period.

The Commission also recommends that student benefits be suspended for months in which the individual is not actually attending school on a full-time basis. Currently, student benefits are paid not only during school-year vacation periods, but also during the summer when the student may not be attending classes.^{B/}

Standards Relating to the Divesting of Assets

Some people divest themselves of their assets by transferring or selling them to friends or relatives at well below market value in order to qualify for income-tested programs such as Medicaid. The States have the responsibility for establishing conditions to deal with this problem. The Commission recommends that States explore proposals to establish appropriate standards in this area, within the limits in Public Law 96-611.

Adjudication of Disability Cases

A communications problem exists between applicants in disability cases and the State agencies which make the determinations. Easy access to information about claims may affect the claimant's eventual decision on whether or not to request a hearing after a claim has been denied. The Commission recommends that special phone lines be installed in the State agencies, on a three-year experimental basis, so that claimants may call to have questions answered, and to receive clarification of decisions on their claims. If the experiment proves successful, it should be continued.

^{B/} See supplementary statement on student benefits by Mr. Dillman, Mr. MacNaughton, Mr. Myers, and Mr. Rodgers.

Changes in the W-2 Form

Public understanding of the Social Security program is critical to its continued support. Although many people know that Social Security benefits are financed by a tax on their earnings, they are not necessarily aware that the deduction labeled F. I. C .A. (Federal Insurance Contributions Act) on the Federal income tax form W-2 is that tax. In addition, 38 percent of those responding to the National Commission's public opinion survey did not know that their employers contribute an equal amount.^{1/}

To improve public understanding of the financing of Social Security benefits, the National Commission recommends that the Federal income tax form W-2 clearly label the payroll tax as the "Social Security tax" rather than "F.I.C.A."; that the form include a statement regarding the employer contribution; and, that the tax rate allocation among Old-Age and Survivors Insurance, Disability Insurance, and Hospital Insurance be clearly stated. The Federal income tax form for self-employment income should give similar information.

Non-Comparability of Benefit Protection

Although the Railroad Retirement program provides essentially the same benefit protection in its tier 1 as does Social Security, there are a few minor areas where Social Security would pay benefits, but Railroad Retirement does not do so. These include widow's benefits for divorced spouses, the continuation of benefit rights for widows and widowers who

^{1/}A Nationwide Survey of Attitudes Toward Social Security, A Report prepared for the National Commission on Social Security by Peter D. Hart Research Associates, Inc., p. 56.

remarry after age 60, and child's benefits with respect to retired workers (although the Railroad Retirement system does consider these child's benefits in connection with its overall minimum guaranty provision)..

Under the financial interchange provisions between the two programs,^{2/} Social Security pays Railroad Retirement the benefit amounts for these categories, even though the latter does not make any payment to the persons involved. The National Commission believes that this is inequitable and that either the Railroad Retirement system should be modified to put its benefit structure in conformity with Social Security in these cases, or else payment should not be made under the financial interchange for these cases.

^{2/} Under these provisions, financial transfers are made between the two programs representing the difference between (a) the additional taxes which Social Security and Hospital Insurance would have received if railroad employment had been covered thereunder and (b) the additional benefit payments and administrative expenses which Social Security and Hospital Insurance would have paid if railroad employment had been covered thereunder.